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Attorney General, Legislators Propose Bill to Protect Delaware's Environment
Legislation targets violators who chronically ignore state's pollutions restrictions

WILMINGTON – Polluters who repeatedly run afoul of Delaware law will face stronger enforcement actions and greater financial consequences under a proposal unveiled today by Attorney General Beau Biden and three of the legislature's strongest environmental champions.

Biden was joined by Sen. David McBride (D-Hawks Nest), chair of the Senate Natural Resources & Environmental Control Committee, Rep. Quinn Johnson (D-Middletown), who leads the House Natural Resources Committee, and Rep. Michael Mulrooney (D-Pennwood), who chaired the House panel last year. The officials stressed that the legislation is aimed at polluters who violate Delaware's environmental-protection laws on numerous occasions, show no willingness to reduce the pollution coming from their facilities or appear to view environmental penalties as merely a cost of doing business.

"One of government's primary duties is to protect the health and safety of families and communities by safeguarding Delaware's natural resources," Biden said. "This legislation will be strong motivation for polluters to clean up their operations and follow the law. I want to thank Sen. McBride and Reps. Johnson and Mulrooney for sponsoring legislation that will protect our environment."

"In 2001, we put the original chronic violators program into effect. I believe it is now time to reexamine the existing program, and where necessary, to strengthen our existing program. This legislation helps us take a proactive step to take action against violators who are unwilling to change their behavior," said Sen. McBride. "Delaware's a great place to do business, and we're blessed because most Delaware companies play by the rules every day. But sadly there are some companies that cut corners, pay fines and just make it a cost of doing business. These are the companies that we need to stop because these are the ones that have a lifetime impact on the air and water our children breathe and drink."

The bill, which will be formally filed when the General Assembly reconvenes next week, improves upon Delaware's 2003 "chronic violators" law. Today's proposal gives the Department of Natural Resources and Environmental Control clearer authority designate polluters as chronic violators, which triggers enhanced financial penalties for future emissions. The bill also beefs up those penalties. Currently, a chronic violator can only be fined a maximum of \$10,000 per day. Under the bill, violators could be fined a maximum of \$10,000 per illegal emission that happens in a given day.

Rep. Quinn Johnson, who chairs the House Natural Resources Committee, said the legislation would hold chronic violators accountable and protect taxpayers against bearing the burden of cleanup costs.

“Getting caught polluting and flaunting our laws should not be cheaper than doing business the right way,” said Rep. Johnson. “Paying penalties for polluting should not be part of the cost of doing business. We must take steps to minimize polluters and encourage companies to be good stewards of the environment.”

“DNREC has done its best to make these violators follow our laws, but have been frustrated in their attempts to use what could be a very useful tool,” said Rep. Michael Mulrooney. “We hope that these changes will make violators think twice before disregarding our laws and will finally give DNREC the authority to deal with businesses whose irresponsibility damages our environment and leaves taxpayers holding the tab.”

Additionally the legislation:

- Clarifies the definition of chronic violator status that applies to parties that demonstrating either an inability or an unwillingness to comply with Delaware law, or to parties that appear to treat environmental penalties simply as a business expense rather than an environmental threat it must correct.
- Broadens the standards and criteria DNREC uses to declare a chronic violator to include parties that have not adequately funded or modernized their operations, maintenance, training programs and risk management reviews and to parties that have not used recognized and generally accepted engineering and other industry practices to ensure compliance with environmental regulations.
- Updates DNREC's authority to amend and modify chronic violator regulations and enhances administrative penalties for violators. It significantly increases financial penalties from the current maximum of \$10,000 per day to \$10,000 for each separate release of each identifiable pollutant per day. This increased penalty could be substantially higher and acts as a more effective deterrent.

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